

REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON THE INDEPENDENT COMMISSION
AGAINST CORRUPTION

REVIEW OF THE 2023-2024 ANNUAL REPORTS OF THE ICAC AND
THE INSPECTOR OF THE ICAC

At Macquarie Room, Parliament House, Sydney, on Monday 10 February 2025

The Committee met at 1:10.

PRESENT

Mr Jason Yat-Sen Li (Chair)

Mr Mark Hodges (Deputy Chair)

The Hon. Tania Mihailuk

The Hon. Jacqui Munro

Mrs Sally Quinnell

Ms Kobi Shetty

Mr Tri Vo

PRESENT VIA VIDEOCONFERENCE

The Hon. Dr Sarah Kaine

Mr Michael Regan

Dr David Saliba

The CHAIR: Good afternoon everyone and welcome to the public hearing of the Committee on the Independent Commission Against Corruption. Today's hearing is part of our review of the 2023-2024 annual reports of the ICAC and the Inspector of the ICAC. I am Jason Li, the member for Strathfield and Chair of the Committee on the Independent Commission Against Corruption. With me today are my fellow committee members: Mr Mark Hodges, deputy chair, and member for Castle Hill; the Hon. Dr Sarah Kaine, MLC, via videoconference; the Hon. Tania Mihailuk, MLC; the Hon. Jacqui Munro, MLC; Mrs Sally Quinnell, member for Camden; Mr Michael Regan, member for Wakehurst, via videoconference; Ms Kobi Shetty, member for Balmain; Mr Tri Vo, member for Cabramatta; and Dr David Saliba, member for Fairfield, also via videoconference. The hearing is being broadcast to the public via the Parliament's website. Before we commence, I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the land we meet on here at New South Wales Parliament. I also pay my respects to Elders, past and present, and extend that respect to other Aboriginal and Torres Strait Islander people who are present today or watching proceedings on the New South Wales Government's website. I declare the meeting open.

The Hon. JOHN HATZISTERGOS, AM, Chief Commissioner, Independent Commission Against Corruption, sworn and examined

The Hon. HELEN MURRELL, SC, Commissioner, Independent Commission Against Corruption, affirmed and examined

Ms MICHELLE WARD, Acting Chief Executive Officer, Independent Commission Against Corruption, sworn and examined

Mr ROY WALDON, Executive Director, Legal Division and Solicitor to the Commission, Independent Commission Against Corruption, sworn and examined

Mr TIM FOX, Executive Director Investigation Division, Independent Commission Against Corruption, affirmed and examined

Mr MATT ASQUITH, Acting Executive Director Corporate Services Division, Independent Commission Against Corruption, sworn and examined

The CHAIR: I welcome witnesses from the New South Wales Independent Commission Against Corruption. Thank you for appearing before the Committee today. Please note that Committee staff will be taking photos and videos during the hearing. The photos and videos may be used on the New South Wales Legislative Assembly social media pages. Please inform the Committee staff if you object to having photos and videos taken. Can you each please confirm that you have been issued with the Committee's terms of reference and information about the standing orders relating to the examination of witnesses?

MICHELLE WARD: Yes.

JOHN HATZISTERGOS: Yes.

HELEN MURRELL: Yes.

ROY WALDON: Yes.

TIM FOX: Yes.

MATT ASQUITH: Yes.

The CHAIR: Would any of the witnesses like to make a brief opening statement before the commencement of questions?

JOHN HATZISTERGOS: I'm happy to give a brief opening statement. First of all, I extend the apologies of Commissioner Lakatos, who is unable to be with us today. The 2023-24 fiscal year resulted in an extraordinary 3,635 reports to the commission, which was 21 per cent up on the previous year. You'll see how we track over the last three years on page 3 of the annual report. But I should point out that between the period 2022-23 and 2023-24 there has been a 19.8 per cent increase in the number of section 11 reports. These are the reports that come from agency heads. Indeed, in 2023-24 it was noticeable that it was the first year in recent times that we saw the number of section 11 reports exceed the number of section 10 reports. That trend is continuing with our current figures in the year to date.

Indeed, up to January 2025 we've had a 17.5 per cent increase in section 11 reports compared to the same time last year. This is significant as it demonstrates, as our experience indicates, that section 11 reports are more likely to result in the commission's intervention. The phenomenon follows a very heavy emphasis by the commission on identifying and addressing areas of suspected under-reporting, particularly in the aftermath of Operation Keppel. We identified, on page 23 of the annual report, reasons for the increase, which in turn has resulted in an increase in work throughout the organisation. The most frequent types of conduct in section 10 reports, and those referred to as the most frequently reported agencies—you'll find that on pages 26 and 27 of the report.

In 2023-24, the number of preliminary investigations tripled compared to the previous year. We have, yet, completed 91 per cent of our preliminary investigations within our key performance timelines, the highest figure in nine years, while maintaining our previous standard of completing full investigations at 66 per cent of the KPI timelines. We furnished three reports to the Parliament, in operations Galley, Tolosa and Hector. Operation Galley and Tolosa emphasised the need for declarations and management of conflicts of interest on the part of elected councillors. Both highlighted the dangers of foreign influence, particularly involving grooming of public officials. Foreign nationals have also featured in a number of other investigations in recent times.

Hector was an important investigation which identified corruption crossing the Inner West Council, Transport portfolio and Downer EDI. The report to Parliament was the first to engage with the provisions of section 8 (2) (a) of the ICAC Act, particularly as it related to corruption in the private and public sector procurement of public infrastructure. Since the publication of our annual report, we've also published a further section 74 report in Operation Mantis, a matter concerning procurement and recruitment at Canterbury-Bankstown council, and we'll report in relation to matters arising out of that in our next annual report.

Of interest to the Committee, no doubt, is the fact that, in our reporting, we have complied with section 74E of the ICAC Act, which was inserted under the ICAC and LECC Legislation Amendment Act 2023. The commission's standard time frames for preparing and providing section 70 reports to the Presiding Officers are at least 80 per cent of the reports, for a public inquiry of five days or less, to be provided within 80 days of the receipt of final submissions and, for a public inquiry of more than five days, to be furnished to the Presiding Officers within 180 days. In 2023 I expressed reservations about such a benchmark based on the number of hearing dates. The commission was committed to that under a submission that was advanced to the Committee by our predecessors. The reason for the reservation that I expressed was it's based on the number of hearing days, whereas 90 per cent of the evidence that we have is now data. Nonetheless, we have complied with our benchmark. The benchmark is 80 per cent; we actually achieved 100 per cent. So all the reports were done within the KPI time, and the same benchmark was also achieved in the furnishing of our report in Operation Mantis.

I want to briefly touch on some of the matters that arose at the last Committee hearing that might be of interest to members. Firstly, in relation to prosecutions, you'll find a summary of the investigative outcomes for the past year at pages 6 and 7 of our annual report. I can inform you that we currently have five full investigations, including three complex ones, and five preliminary investigations, including two strategic investigations. The issue of timely prosecutions is one that was discussed at last year's annual review, and details of those are contained in appendix 5, page 106 of the annual report. Four sets of advisory briefs have been reported in the reporting period. These were for operations Lancer, Witney, Aero and Tarlo. Since that time four further sets of briefs have been submitted, including three that went public; that is, in operations Ember, Skyline and Gerda. We have four more legacy briefs that are underway and expected to be submitted this year. They are Keppel, Paragon, Galley and Tolosa. This will leave the two more recent matters, which are Hector and Mantis, still to be worked on. This is a significant improvement on where we were at before we commenced as commissioners in 2022.

Part of the reasons why we've been able to advance the prosecutions, including the legacy matters that I have referred to, is that we now have dedicated staff preparing briefs, rather than requesting staff to put aside time from other duties. Our initiative has also resulted in positive acknowledgement from the Director of Public Prosecutions herself. The brief preparation function has now been incorporated into the Strategic Capability Unit—previously the Strategic Intelligence and Research Unit—and an expanded list of functions of this unit you can find on page 31 of the annual report.

In relation to the issues of corruption prevention, I should indicate to you that you asked us on the last occasion to give you a six-monthly update as to our progress in raising awareness amongst culturally and linguistically diverse communities. We will furnish that information. It's not quite six months yet, but we will furnish that information in that timeline. But I can advise you that, based in part on your request, the commission has commenced a project aimed at better understanding culturally and linguistically diverse communities that interact with our work. We have commenced working with the New South Wales Ethnic Communities' Council and bilingual educators to hold workshops in six culturally and linguistically diverse communities. They are Korean, Cantonese, Vietnamese, Mandarin, Arabic and Tagalog. The team is currently working with the ECC to develop resources that will help these communities to understand our conduct and the commissioner's role. We currently have language brochures in 13 languages titled *Introducing the ICAC and Reporting Corruption to the NSW ICAC*.

A separate brochure about our witness liaison officer role was developed in the last year, and is available in those languages, plus also in Hindi and Filipino. I should acknowledge Multicultural NSW, which has been assisting us with translation and assisting with the identification of relevant languages. We are also working with our web developer to implement the Google Translate tool on our public website. This will enable HTML articles to be able to be translated into 15 languages—the same ones we currently have as those which are the most common languages that our brochures are in. The commission and its developer are working on being able to start the assessing of that functionality, and we have some way to go in developing that and also testing it before we go live. The way it will work is that when the user visits the website, they will be able to see a small pop-up menu with the option to choose a language. Once the language is chosen, the page will be translated into the language

of that user. We are planning, as I said, to conduct some internal testing of some of the language translations with language-proficient commission staff. Other websites use this facility, including the Supreme Court.

Beyond this, it is our intention to place greater emphasis on the commission's duties to educate the public in addition to public officials, and I anticipate that that will be something that you might want to inquire about. Recent experience, however, I should indicate, indicates that there is significant interest in the commission's submissions and work, and we will continue to engage in a broader sense, particularly through our outreach program, which this year we will be able to take into two regional locations in western New South Wales—Dubbo, commencing Wednesday, I think, and Broken Hill, commencing Wednesday of next week. We will then be following that up later in the year with one metropolitan area and another one in regional New South Wales.

One of the issues, however, that has arisen, or one of the issues that I should just indicate to you, is that there is a significant interest, when we make submissions, particularly agency reviews, about what our thoughts are. Those submissions are not routinely made public. The recent one in relation to local government is a classic one where, I understand, there were a large number of submissions, but we kept getting asked what is our submission. We haven't made it public. We've asked the Office of Local Government whether they have any objection to making it public; they haven't responded. But one of the things we are going to have to consider, bearing in mind the interest in matters of this nature, is having a default provision whereby we make it public after a certain period. Obviously, we will respect confidentiality. If it involves Cabinet, that is a different situation, but if it's a broad consultation, public review, and there's a consultation paper or we're asked to comment, I think that's in a different category, and people are entitled to know where we stand in relation to such proposals.

You asked us last year about our employee culture. I should just indicate our combined attempts to change culture for the better are reflected in our encouraging People Matter survey, which will be reported on in our next annual report, because the one that postdated was the 2023-24 report. But, to give you an idea, in 2024 we had an 87 per cent participation rate with an engagement score of 71 per cent—an increase on last year, when it was 63 per cent. It is a positive trend, both in the number of people who are participating and in the positive statements that we have received. We currently have 159 staff, or 154.91 FTEs. All our staff have been made welcome, and they make an enormous contribution to the success of our organisation.

There are a couple of matters of law reform that I should briefly indicate to you. I've written, I should indicate, to the Premier and to relevant Ministers seeking legislative action in relation to two issues, and I should report on these two issues to you. The first of these relates to the need for more efficient means of disposing of property obtained by the commission in the course of an investigation, in circumstances where the commission is not satisfied that anyone is lawfully entitled to the property. That issue has arisen in two commission investigations being in Operation Tolosa and Operation Hector. In these cases, the sums of money involved are small and the present procedures are not practical or cost effective to secure forfeiture. We have proposed legislative change, which will be based on something that Western Australia has under their Criminal and Found Property Disposal Act of 2006. This enables the commission to use what might be described as a show cause regime to deal with property in this category.

The second issue arises out of what you might recall attracted some attention in 2023 and resulted in the promulgation of the Surveillance Devices Amendment (ICAC) Regulation 2023. This gave the commission a time-limited power—until 31 December 2025—to use surveillance device recordings unlawfully obtained by a person other than the commission. We have in our annual report disclosed the use of that power in the course of the year past. You will have noticed that the regulation has not resulted in widespread deployment of unlawful surveillance for the purposes of bringing material to the commission's attention. Nor could it be, as there is no provision granting immunity to persons who engage in such surveillance. Notwithstanding this, there is a need to finalise an ongoing legislative response to this issue before the sunset provision takes effect. Such legislation for bodies similar the ICAC currently exists in four other jurisdictions.

In 2024 the commission provided the Department of Communities and Justice its proposal responding to a consultation paper. We await an outcome. I have written to the Premier about this matter in terms of the need for that change and also in the context of the current investigation that the commission has undertaken. I've also written to the Leader of the Opposition to similar effect. To address some of the concerns that members of Parliament may have raised in the context of this debate, the commission has developed a protocol for the storage and management of material in the context of an investigation. This has been provided to you and is published on our website. In addition to these two issues of law reform, you'll recall I've also raised an issue in respect of section 8 (2A) of the ICAC Act, which was the subject of my correspondence on 17 May 2024 and an informal meeting with the Committee on 21 October 2024. The purpose of directing the correspondence to yourselves is that the

issue arose out of Operation Hector and the report, and consideration of that report is one of your functions under section 64 (1) of the Act.

Finally, can I just say this: corruption is getting more sophisticated, complex and harder to detect as technology has evolved since the early days of the commission. There is becoming less of a paper trail and more of an electronic footprint and large volumes of electronic material that investigators have to distil. The public inquiries used to take a few days, with reports being at least half of what they are today. They now require a lot more commission resources. The commission last year has had two complex investigations arise from one the previous year, and currently there are three complex investigations underway, with the likelihood of this expanding later this year. These investigations involve the processing and review of significant amounts of electronic data, and many require protracted and complex financial investigations. The receipt and seizure of computer data has substantially increased from the previous reporting year.

To give you some idea, in 2022-23 the data processed by digital forensics was 48 terabytes; in 2023-24 the data processed by digital forensics was 60 terabytes. The above statistics illustrate the increase in the processed electronic data, and we are tracking to exceed 60 terabytes this financial year. For those of you who may not be aware, one terabyte is the equivalent of 83 million pages. This increase in the amount of data received is directly related to the increase in societal reliance on electronic storage devices. Finally, this financial year—that's 2024-25—will be the last we report on in terms of our *Strategic Plan 2022-25*.

We've commenced planning for our next strategic plan, acknowledging the progress thus made but planning for the changing landscape that lies ahead. I should acknowledge that the progress of the year past and the fulfilment of the strategic plan thus far would not have been possible without the additional resourcing provided in the last three budgets by both the previous and the current government. I acknowledge the support of this and the previous PJC which have facilitated for that to occur. For that, the commission remains much appreciative.

The CHAIR: Thank you very much, Chief Commissioner. We'll commence questions now, and I might take the liberty of the first one. You mentioned in your opening remarks about the increasing digital nature of more corruption, on the one hand, and the commission's work on the other. One of our recommendations from our review of last year's annual report is that the commission expedite its cyber readiness work. I wonder if you could comment in detail about any additional steps that you've taken in respect of cyber readiness? I'd be really interested, noting that the commission has a risk and audit committee, if you could comment at all on your risk rating or how you how you rate the commission's cyber risk, and any mitigations that you have in place for that.

JOHN HATZISTERGOS: At the last PJC meeting we were at the preliminary stages of our cybersecurity analysis. We now possess further detailed understanding of the associated risks and the necessary controls to address them. This includes the establishment of a dedicated cybersecurity risk register providing a comprehensive overview of the identified risks. The controls currently implemented, and the subsequent—

The Hon. JACQUI MUNRO: I'm really sorry, but would you mind speaking a little bit closer into the microphone please? Thank you.

JOHN HATZISTERGOS: I'm sorry. This includes the establishment of a dedicated cybersecurity risk register which provides comprehensive overview of identified risks to the controls currently implemented and the subsequent action plans to address any gaps. More critically, we are in the process of procuring a security operations centre that will offer us substantial protection through continuous monitoring, detection, analysis and prevention of cyberthreats. This initiative will enable us to dedicate more time to ensuring that our policies and procedures are robust while also ensuring that the commission staff are appropriately trained in this area.

Additionally, we are planning to migrate our IT structure to the cloud, and have commenced this project by seeking necessary funding from Treasury. This transition will facilitate additional cybersecurity enhancements, including advanced cloud-based firewalls. A list of the steps taken in accordance with the NSW Cyber Security Policy—you'll be able to find that on page 41 of the annual report. I might just ask Ms Ward if she's got additional information on the ratings and what our rating is.

MICHELLE WARD: As the chief commissioner just outlined, we've now developed a very detailed cyber risk register. We've got a number of different areas in that capacity, and they do range from probably high to extreme. We do have a low tolerance of any leakage of our data and the information contents that we hold. From that that detailed register, as the chief commissioner has just said, we are actually targeting now the procurement of a security operations centre. That procurement process closed last Friday.

We get to review all those applicants and all those vendors. From there, though, that's where we are looking to reduce a lot of those extreme risks. We're expecting, post that mitigation, the security risk will be a lot lower—between medium and low. As the chief commissioner said, that also involves an application to the cloud. We're undertaking quite a review in that space as well. We've only just remitted that budget proposal to Treasury, so that will be determined over the next few months.

The CHAIR: Can I clarify, did you have an external agency come in and audit your cybersecurity arrangements and give a piece of advice that informed the risk register?

MICHELLE WARD: We have what we call a PSIO, a principal security information officer. They're internal to the commission. They provide our cyber attestation on a yearly basis. Every couple of years we do also open it up to an external review as well, but this year, for 2023-24, that was done internally.

The CHAIR: So the risk register that you just mentioned is entirely an internal piece of work?

MICHELLE WARD: Correct.

The CHAIR: Do you have a sense of the quantum, in dollar terms but also in time frames, of the work that would be required to bring your cyber risk within tolerance?

MICHELLE WARD: Via the SOC model we're talking about, or via what?

The CHAIR: By any model.

MICHELLE WARD: Not in dollar terms, in terms of what that looks like. We're targeting a SOC and that will depend on the vendor-provider. But effectively, by providing us with that scalability and that support, we are expecting those risks to be lowered because, basically, what that SOC will doing will be 24-hour monitoring, effectively, which is not what we've got at the moment.

The CHAIR: Can commission staff access commission databases or the commission IT system via their individual devices—mobile phones and laptop computers?

MICHELLE WARD: Via their computers a lot of people do have access to commission information, yes. There are only a couple of areas that do not have whole access.

The CHAIR: Do you have protections such as multifactor authentication on all of those devices?

MICHELLE WARD: Yes, we do, on all of our devices.

The CHAIR: Has your internal officer conducted industry-standard penetration tests—the sorts of assaults that people do with these things—and measured the commission's performance against those?

MICHELLE WARD: That's correct, yes. I suppose from our last attendance here at the PJC, we actually responded in a lot more detail in terms of our cyber readiness. That involved a lot of those tests that you're talking about. Basically, vulnerability penetration testing happens every year. We do it both from an internal and an external viewpoint, and we're currently going through that process at the moment. But also we've got MFA, we've got various communication mechanisms and we've got reporting structures. We actually provided further information, I think it was early January of 2024. We had to take extra questions on notice, so I can share those details again, but it's within those areas.

The CHAIR: Thank you, that would be helpful. I imagine you have all sorts of confidential and sensitive information as a product of your investigations or complaints or referrals. In the case of a breach, do you have a policy around how to how to manage that? Do you have an existing policy or procedure around what you do? As a hypothetical, there's a confidential investigation into a high-profile person. A cybercriminal gets access to not just the fact that they are being investigated but also a whole range of highly sensitive personal information. They threaten the commission that unless a ransom is paid for that, it will be published widely through media outlets. Do you have a policy or an approach—an internal procedure—for how you respond to something like that?

MICHELLE WARD: That's right, yes. We do have an information security management system. It's a framework that's been developed around all of our cyber instances. We also have quite a detailed IT security policy that we follow as well, plus also we check in with and align to the New South Wales cyber security requirements as well, including the Essential Eight program. We also go through regular incident management exercises, where we either attend along with the cluster or we bring people in-house to take us through various scenarios. They may occur between two and three times a year in that space as well. So I'd regard that as quite comprehensive.

JOHN HATZISTERGOS: We did give you a fairly lengthy response to the questions you raised at the last review, I think—I've got it here if you haven't got it, from 9 January 2024—which details a lot of this. We've done scenario-based training, as well, with our staff.

The CHAIR: Does the Government have an overall approach in terms of how to deal with cyber ransoms? Does it go to the Minister or are there internal procedures within departments? Does anybody know?

JOHN HATZISTERGOS: I'm not sure about what the Government does about it.

MICHELLE WARD: I think it's still a "no ransom paid" policy. But, effectively, a lot of those policies are dictated by Cyber Security NSW.

The CHAIR: The troves and troves of data that you collect on investigations in your day-to-day business—do you purge that data? What happens to that data? Is it stored or is there a procedure where you purge it after a certain period of time? What are the requirements in terms of the retention of data, and how is that managed?

MICHELLE WARD: We have data records requirements where we hold general records and data. In terms of information security, as far as I'm aware, we hold it, because all of our systems currently are on premise. As far as I'm aware—and I can take this on notice as well—it is available. We do need to look at our data storage in the sense that we're holding a lot of data, and whether we actually have to under—when we go to the cloud or when we look at going into the next system, how we need to store that data. I probably need to take this on notice to be sure it exists as is and people have direct access to it.

The CHAIR: Are you aware of any legal requirement that that data is held indefinitely or for a certain period of time?

MICHELLE WARD: Legal requirement?

The CHAIR: That the data be held for a particular period of time or indefinitely. The laws are silent on this one.

MICHELLE WARD: There are records management policies where we have to meet at least a minimum holding of the record, and that varies depending on what the file or the record contains.

The Hon. JACQUI MUNRO: Can I just ask a follow-up on that? Is the idea that the security operations centre has some sort of data storage mechanism? Is that built into the contract or are they separate things?

MICHELLE WARD: No, they're separate things. The security operation will be looking at our systems and who has access to our systems. If you're talking about actual storage of data, that's when we look at different models, like, for example, going to the cloud.

The Hon. JACQUI MUNRO: So the security operation centre doesn't have a data management function, per se.

MICHELLE WARD: No, it's a monitoring system.

Dr DAVID SALIBA: Thank you so much to the ICAC members for the work they do. Commissioner, you mentioned the troves and troves and troves of electronic data collected as part of your investigations. When we look at staff, we look at fiscal constraints as well. Of course, you need more staff to do the work that you do. I guess what I'm trying to ask here is about artificial intelligence. Jacqui's got a strong passion in that space. What are the potential opportunities with respect to using AI to assist investigators to go through this electronic data?

JOHN HATZISTERGOS: There are opportunities for us to be able to use it, and other agencies are much better positioned to be able to do that. We do have a committee which is chaired by Commissioner Lakatos, which is looking at the issue of AI. We have also raised it at a national level with other commissions of a similar nature, including the National Anti-Corruption Commission. Our office also prepared a paper for a meeting of the commissioners on 16 and 17 November 2023. I'm happy to give you, on notice, an analysis of where we see the AI landscape lies as a potential facility that we can use in the future.

But at this point in time, we need to progress the other changes in technology, particularly the matters that I've referred to earlier, before we are in a position to be able to advance the use of AI in the way we would like. It is, I have to say, somewhat challenging doing this on a national basis because every commission operates differently. Even with us, we need to have common data points to be able to facilitate searches. These are issues that we need to engage in.

MICHELLE WARD: I might just add to the chief commissioner's comments. I suppose the whole premise and foundation around AI is about data. It is also important to note where we stand at the moment. AI effectively has no human reasoning ability. That is paramount in the type of work the commission undertakes. What it does do is pattern matching and statistical analysis and best guesses on responses. But, again, that's all fed based on data input. At the moment a lot of the opportunities we are looking at are probably just the manual type of analysis of the data and information that we are getting. To progress it any further, it is probably still in its infancy.

The CHAIR: Before we dive further into AI, could I just close off that last bit of questioning with a couple more simple questions. In your risk and audit committee, are there any external members?

MICHELLE WARD: Yes, there are three external members.

The CHAIR: With the work that you are doing now to mitigate your cyber risks within the risk register, is there a budgetary allocation for that under your existing budget or do you envisage needing to ask for additional funding in order to do that?

MICHELLE WARD: At the moment, it's additional funding. We are currently using our existing resources, which comprise of two staff. That was funding that we obtained through the Digital Restart Fund a couple of years ago. We do have consultancy budgets, where we bring in consultants to review our progress against our annual attestation. Effectively, we rate the level we are at, and then we put strategies in place in order to address that. We may outsource that to external consultants. At the moment, we're dealing with that within our existing resources. I suppose the next step up will be this SOC model and any potential cloud implications. As I mentioned, we've only just put that bid in through Treasury, so we won't find out about that for another few months yet. But what that looks like going forward will depend on those outcomes.

JOHN HATZISTERGOS: Can I just add a few points on this topic before we leave it, assuming there are no other questions. The commission has joined with the University of Sydney and we've obtained Australian Research Council grant funding to conduct a project titled, AI and Anticorruption: Unearthing Systemic Corruption in the Public Sector. That's a joint research project that a number of our staff are also involved in. We have also revised our standard directions for the use of AI in public inquiries before the commission. I understand a copy of that has been forwarded to you. They're modelled on what similar bodies have adopted. The updated guidelines are included in our Information to Witnesses brochure. They're also published on our website. Also, before we leave this topic, I don't want anyone to think that we haven't done anything about improving our investigation techniques. We've developed a project to digitise search warrant procedures. That will email property receipts and enable deficiencies in registering and process registration. This is one of a number of improved functions that have been undertaken. On page 32 of the annual report you'll see a list of the investigative techniques that we've undertaken to improve our capacity to be able to carry out this sort of work.

The Hon. TANIA MIHAILUK: On that topic, Ms Ward, you just mentioned that you've got an application. Is that before the Treasury for additional staff in this sort of area? Is that what you were saying?

MICHELLE WARD: Not additional staff. It's for the SOC model—the security operation centre and potential cloud.

The Hon. TANIA MIHAILUK: Yes, for storage. I noticed in the organisational chart—and I do recall from our last annual report that there was a request at the time for additional staffing—21 additional full-time positions. Looking at the organisational chart, they have been spread across, with additional people within the investigations unit, but also additional people within corporate services. What was that area for within corporate services?

The second biggest jump of additional staffing has been in, it seems, corporate services. Is that with this IT area?

MICHELLE WARD: As the chief commissioner said in his opening address, we've had two budget outcomes. There was one called the re-baselining and there was one sort of subsequent to that.

The Hon. TANIA MIHAILUK: Yes, the baseline.

MICHELLE WARD: One of them was actually an extension of a cyber staff, because when we first received the funding under the cyber security program, it was only for a two-year appointment. In one of those bids we would have extended that to become permanent employees. But also following through that is that, yes, corporate services has gone up, and it has gone up in HR, largely in the training space and also principal assessment officers.

JOHN HATZISTERGOS: Witness welfare.

MICHELLE WARD: And witness welfare as well. That's right. I'm sorry, we have actually provided that information.

JOHN HATZISTERGOS: We did. We provided a letter indicating where all the staff went. That was provided to the Committee. I can tell you at the current time, investigations is 68 staff members, corruption prevention is 20, legal is 13, corporate services is 30, communications and media is four, assessments is 16, and executive support is four.

The Hon. TANIA MIHAILUK: I think what I noticed in the chart is there has been a reasonable jump in the corporate services.

JOHN HATZISTERGOS: A lot of that is IT, cyber, witness welfare.

MICHELLE WARD: And we've also undertaken a new review of our case management system. So effectively we had to bring on additional analysts to develop that program over the next four years.

JOHN HATZISTERGOS: The other area is staff development. We just weren't doing anything in that space, so we've had to do a lot of work on staff development, and you can see the outcome of that in terms of the improved PMES results that we've had.

MICHELLE WARD: You're pretty much looking at that one point in time over probably about a 10-year period where that's actually gone up on that chart.

JOHN HATZISTERGOS: Did you want to know about the witness welfare or not?

The Hon. TANIA MIHAILUK: I think we're going to get to that.

MICHELLE WARD: We'll get to it.

The Hon. JACQUI MUNRO: Thank you so much for being here and for all the information. It's really interesting to hear about the data management processes. I wanted to understand how Project Nexus fits into all of this, because I understand that there were difficulties hiring people because of labour shortages, and some money was actually rolled over to the next budget year. How does that interact with all of the projects that we've been discussing so far?

MICHELLE WARD: Thank you for your question. Project Nexus is a four-year project. It's basically looking at a review of what we call our CMS, our case management system. At the moment, we use a product called Resolve, but we're finding that we need to review all of our practices, so we've undertaken Project Nexus. That was budget funding that we received probably two years ago. We did get started late last financial year, not the current financial year. We did have recruitment challenges in terms of finding people appropriate and probably got delayed by about a good six months. So we have had to roll funds from '22, '23, '24 into this financial year. But they're pretty much up and running now. They've managed to fill those positions, being a couple of data analysts and one data architect. That's up and running.

It's a whole case management overview. It's basically looking at what individual roles are, both current state and also future state in terms of what we need to develop too. What it's also doing is it's also preparing our systems for AI capability as well. We've got that bit happening. We're probably, as I said, just the first year effectively into it. But what we're also doing, by looking at the SOC and also those requirements under the cyber, those sort of things is getting the data ready as well in order to integrate into that, such that in about 12 to 18 months' time we will be able to readily integrate a lot more portals, a lot more functionalities across the commission, plus also look at whatever that AI framework looks like at that time.

The Hon. JACQUI MUNRO: The additional funding request for the IT cloud transition, is that separate to the SOC funding request?

MICHELLE WARD: It's a different product. But effectively we're going for a SOC first. Because, by getting a SOC, we get that 24-hour monitoring and that coverage and that review function. From there, though, we are looking to move to the cloud, but it will depend on Treasury funding, the allocation of the budget bid that we just put in. So probably SOC model is the immediate need that we require—certainly to address a lot more of our detailed cybersecurity risks—but then also moving to the cloud because, effectively, that's also been brought upon us through our vendors. At the moment a lot of vendors are just going to the cloud. We have to keep up with that as well. We're also moving premises as well. We're reviewing our whole IT infrastructure, our hardware. It's a few things that are landing all together at once.

The Hon. JACQUI MUNRO: In terms of the CMS, AI capabilities, do you have some sort of forward planning that suggests the way that AI capability might be embedded into those systems? Is it something as simple as searching or you're delivering reports through AI? Is there a bit of a plan or foresight?

MICHELLE WARD: As the chief commissioner has outlined just in his opening address as well, we've set up an internal AI committee. That takes representatives right across the commission in all those key areas, especially within investigations. We also have the partnership with the University of Sydney and also the intelligence report that was given to the last meeting in 2023, I believe, with NACIN.

The Hon. JACQUI MUNRO: So these are all designed to be quite practical in terms of its application?

MICHELLE WARD: That's right, there's a whole awareness out there. We're well aware in terms of what other agencies are doing, what that looks like. It's just working together to bring that all together.

The Hon. JACQUI MUNRO: On that, thank you so much for sending through the updates to the use of generative AI and how people should be using it in relation to ICAC. I note that it's pretty similar to the Supreme Court practice note, not identical. You've mentioned already that you have used other similar jurisdictional guides. Is this based on the Supreme Court's practice note specifically?

JOHN HATZISTERGOS: It is. The Supreme Court did a lot of work looking at guides beyond courts. The Law Society did a lot of work in this area too. They looked at a whole range of similar organisations and the Supreme Court borrowed that and used it. It comes after a long process. I think a solicitor for the commission looked at it and adapted it to our purposes.

The Hon. JACQUI MUNRO: In terms of the section 11 reports, I noted that about 50 per cent of reports relate to improper use of records, which obviously relates to data management. Perhaps this follows on from the agency reviews and making those public. What kind of work are you doing with individual agencies that relates to data management and use of records, given data is pretty critical these days, as you have said, to the way that agencies and departments function. Is there a crossover happening in terms of your recommendations or advice?

JOHN HATZISTERGOS: In most of the investigations there's always a misuse of information. We see it in Operation Hector, for example, when there was confidential information given to tenderers. It comes up a lot. It comes up in Health. It comes up in a whole variety of areas.

The Hon. JACQUI MUNRO: Is it often digital in nature?

JOHN HATZISTERGOS: It can be, but it's not just— **The**

Hon. JACQUI MUNRO: It's obviously not just digital.

JOHN HATZISTERGOS: It may be an insider who is giving information to an outsider, or it can be a person who is working—it could be a simple thing of a nurse, for example, in a hospital, looking at the clinical records of a patient that the person's not treating and has no involvement with. So it's at various levels. One of the things you may have noticed—it's in our annual report. I'll just find it for you. We did do a review of agencies.

The Hon. JACQUI MUNRO: Is it page 27?

JOHN HATZISTERGOS: And we gave them all a section 14 report identifying where—on page 36 you will see "assessing compliance with government fraud and corruption policies". We gave them a report with two key areas where we believe that there could be improvement. But, more particularly, if you look at page 36, you'll see we did a publication in June of 2024. That publication identifies what we regard as common forms of corrupt conduct. One of the common forms of corrupt conduct you'll see under that list is information management and security. Now, that publication is public.

The Hon. JACQUI MUNRO: In your records, are you actually breaking down the category of improper use of records between access to large databases and more individual-type records that maybe one person is providing verbally or that don't require a breach of a data management system?

JOHN HATZISTERGOS: Look, I'm not familiar with the breakdown. I'll have to take that on notice. They all have a similar impact—or potentially similar impact.

The Hon. JACQUI MUNRO: The ways to mitigate those risks might be differently managed, though.

JOHN HATZISTERGOS: It may be. I'd have to check that.

The Hon. JACQUI MUNRO: Okay. We've got this public guide for the use of AI. Is there an internal guide as well that you provide to staff in terms of the way that they should be using AI or not, or do you just give them this?

MICHELLE WARD: We've developed an AI charter for our AI committee in terms of what we'd like to do and what we need to avoid. That's recently been developed, but we do have other IT policies that apply to our staff in terms of what they should and shouldn't be doing with the systems and how they should use their information and manage that information.

The Hon. JACQUI MUNRO: Is that AI charter public? Or can we be sent a copy, please?

JOHN HATZISTERGOS: I'd have to come back to you on that. I certainly wouldn't object to members of the Committee viewing it at our offices. But as to the question of it being something that's publicly available, I think it's unlikely we would agree to that.

The Hon. JACQUI MUNRO: I look forward to paying you a visit. Just finally, on the extension of the surveillance powers beyond December 2025, you may be aware that I was quite concerned about those powers being granted originally, and you've noted that that will have to be addressed before the extension expires in December. Why? You've said that this relates to a specific investigation. Why can't there be a restriction on those powers to a particular investigation? Currently they are broader than that.

JOHN HATZISTERGOS: First of all, let me just say that the regulation was the Government's response to the issue that we raised. We work within that response. I think, as I understand it, from what I heard in the context of the debate, the Government didn't want to identify itself with picking and choosing the operations that we are able to access these particular powers. The second thing is that, if you read our annual report, you will find that, during the course of the financial year, there was one other matter that came to the commission's attention where that provision was able to be engaged to access material, separate to the matter that precipitated the request. That did not result in an investigation by us. It resulted in a referral by us to another agency, under section 53 of our Act.

Four other commissions have the power that we are seeking. We don't want to be coming to Parliament on every occasion and providing new context to justify it. We've had to do it in this case so that you understand the importance to the particular matter. But there is no prospect of us concluding the investigation that precipitated the request by the end of this year. It is an extremely complex investigation, and it will take a lot more time. The Government responded in that way. They chose the time line. I'm not critical of that. They obviously anticipated that, without knowing much of the detail of what we're looking at, that would be sufficient. But I have to say, for that matter and for other matters that come our way, it is important that this matter be resolved. I have done everything to address the concerns that people have raised, including a protocol, which you've been provided with. I've indicated that we would publish in our annual report the extent to which we use those powers. That's been provided. I don't know what more I can ask. It's a matter for you in the end.

The Hon. JACQUI MUNRO: Yes. You mentioned that the Government made the decision to allow the investigation not to be named, essentially, by not specifying which investigation in the regulation—

JOHN HATZISTERGOS: No, I think they didn't—I'm not answering for the Government. They didn't want to be seen as picking and choosing where we use these powers. I think that was the issue, as I understand it.

The Hon. JACQUI MUNRO: If that had been done, would that have limited or compromised your investigation?

JOHN HATZISTERGOS: We take what we're given, in the end, but there would have been one other matter that came before the commission that we wouldn't have been able to look at and refer on, had we not had that power. And that's the reality of it. You've got to understand the New South Wales law is actually very restrictive.

The Hon. JACQUI MUNRO: I think there's good reason for that.

JOHN HATZISTERGOS: It's extremely restrictive. If you look at something and you're not sure about whether it's engaged or not, if you start looking at it to find out whether it is, you actually commit a criminal offence. And that's the problem with it. It's an extremely difficult provision to be able to work with for us. Four other counterpart agencies have the power. We're seeking the same or similar powers as those other agencies. One of the arguments that was progressed was that people would go out and manufacture this material and provide it to us, in order to be able to somehow justify their cause. But, as I understand it, it's still a criminal offence if you illegally produce this material. All it enables us to do is to examine it and to determine what course we should

take. But I can assure you we're very careful with the information that we get and how we use it. And this was an extraordinary matter that came our way. There's a large amount of material. And, until you examine it, you can't determine whether you are in violation of the law or not.

The Hon. JACQUI MUNRO: I look forward to finding out what the case is. Thank you.

JOHN HATZISTERGOS: But I am grateful to the support that people gave to the commission's request in securing that legislative reform. But we do need a long-term solution to this problem. I think at the time that the regulation was put in place, it was anticipated that there would be a long-term solution before the sunset set in.

Mrs SALLY QUINNELL: I'd like to talk about your witness wellbeing program. I want to thank you for putting a witness liaison officer in place. What steps are taken now to support witnesses by the WLO and by staff generally? What sort of systematic changes have been in place that were not there before?

JOHN HATZISTERGOS: When we're doing these investigations, we obviously do risk assessments and identify witnesses who may be potentially at risk. Anyone who's in that category we refer to the witness liaison officer. I've indicated to you some of the things we do. We prepare brochures. We've got them in different languages. We provide, when we service summons on a witness, the witness information brochure, which includes details of the witness liaison officer. The witness liaison officer can provide assistance to that person and, if necessary, refer them on to Converge, which is the group that we've contracted to provide ongoing support to the person in question. We can also adapt—and we have done this—our own processes to assist the person, depending upon relevant needs, to be able to ensure that, to the greatest extent possible, we can minimise the stress.

Mrs SALLY QUINNELL: Does that include a translator, if needed?

JOHN HATZISTERGOS: Yes, we can provide that as well. There's no issue with that. I should indicate to you that we've had 41 referrals to the service since March of 2024, and 23 of those are closed and 18 are active. We also developed witness wellbeing policies and procedures, which began delivering mandatory training for all our staff in managing mental health.

Mrs SALLY QUINNELL: Was that an external company that came in and provided training?

JOHN HATZISTERGOS: Yes, and I've done the course. It's a very good course. Recently the commissioners from around the country did an analysis of how they deal with issues of witness welfare. That has been synthesised in a publication, looking at how each State is managing these things. What I've tasked the CEO and our witness welfare people to do is to look at that document, look at what's happening in other jurisdictions, and see areas where we may be potentially able to improve even what we have. Ms Ward, is there anything else you would like to add?

MICHELLE WARD: No, I think that covers it.

JOHN HATZISTERGOS: There is also reference to the witness liaison officer on our website. That's also available.

The Hon. TANIA MIHAILUK: As a follow-up to that, Commissioner, is the liaison officer a person trained in psychology or counselling? Is that a requirement for that position?

MICHELLE WARD: For the WLO?

The Hon. TANIA MIHAILUK: Yes.

MICHELLE WARD: They're a social worker. They're mainly from social working backgrounds, yes.

JOHN HATZISTERGOS: Our officer came from the DPP. She was a witness liaison officer for the DPP.

Mr TRI VO: You mentioned the number of staff before. How many staff are involved in the witness welfare unit?

JOHN HATZISTERGOS: We have one witness liaison officer, but of course she interacts with all of our staff.

Mr TRI VO: What duties has she got? What duties, tasks or things is she involved in?

JOHN HATZISTERGOS: I don't have them off the top of my head, but Mr Asquith might help.

MATT ASQUITH: I can answer that question a little bit. It's mainly around dealing with the other divisions within ICAC to understand the matters coming through, what the witnesses involved in that matter are, to undertake a risk analysis, deal with referrals and things like that, and really offer the full suite of support that we can provide internally, externally through Converge. That's the primary function, and then we're trying to uplift the reporting capabilities around that to get some data around how many are getting referred and how they're getting referred, and things like that, to help us go forward to plan on that, as well as to continue to enhance and grow that thing. Secondly, to the chief commissioner's point, there's a lot of cross-collaboration with other bodies like ourselves as to how they do things to figure out how we can improve and where they can improve. We've been helping out in that space as well. It's quite broad, but that's a general overview.

Mrs SALLY QUINNELL: Do you feel like their workload is reasonable at this stage?

MATT ASQUITH: Yes. We're in constant communication around that. It's increasing, but I think that's not a bad thing in terms of being more—

Mrs SALLY QUINNELL: Data would help too.

MATT ASQUITH: Yes, that's right.

Mr TRI VO: You mentioned data risk analysis and categories of risk. What categories of risk or data analysis do you do? What determines if a person is at risk or if a witness is at risk? What categories or information or data determines they are at risk?

MATT ASQUITH: That's something I couldn't answer off the top of my head. It's part of the analysis that the witness liaison officer undertakes, and there's certain criteria and categories. Part of that is—

JOHN HATZISTERGOS: Wellbeing.

MATT ASQUITH: That's right. Just a general sense of wellbeing. You start from there and then you triage depending on where it needs to go, based on the particular individual. If they don't want to be part of it, that's fine as well.

Mr TRI VO: You mentioned a number of translations in a number of languages. I didn't really hear all the languages, but what determines the translation into certain languages?

JOHN HATZISTERGOS: We consulted with Multicultural NSW and the Ethnic Communities' Council, and they're the languages that have been selected at this point. It doesn't preclude us from going further, should the need arise, but they're the groups that, at the moment, have been identified as the appropriate groups for us to have translated material.

Mr TRI VO: Is there further work, beyond your recommendations for the commission, to undertake in this regard and in terms of the witness welfare?

JOHN HATZISTERGOS: Yes, there is. We're looking at some more work in the context of our next strategic plan, but we haven't settled on that at this point. It will partly be informed by the analysis that's being undertaken in relation to what's happening nationally with other commissions. Once that work's been done, then we'll probably feed that into our next strategic plan and see where we can make some enhancements. At this point, a lot of work has been done, as you can see, to progress this issue.

Mr TRI VO: In 2023-24, the commission received and managed a total of 3,635 matters compared with 3,004 in the previous year, and that's because of the increase in section 11 reports. You mentioned this is the first time that section 11—

JOHN HATZISTERGOS: Not the first time. It's certainly the first time in recent times.

Mr TRI VO: The first time in recent times that section 11 is more than section 10. Why do you think this time you've received more section 11 complaints?

JOHN HATZISTERGOS: There's a number of reasons. I think one of the one of the things that's clearly happened is that we've had Operation Keppel, where we had the former Premier found corrupt for not reporting something. That was followed up by us revising our guidelines in relation to section 11 reporting and section 10 reporting, I think. We sent it out to people, and we've deliberately targeted peak groups who are not reporting, relevant to the amount of activity. We do not regard an organisation that does not report as being corruption free. In fact, the opposite: We believe a good reporting culture, a healthy reporting culture, is indicative that they're doing the right thing, whereas if we don't see a lot of reporting we immediately raise our antennas.

The higher education area was a classic area which was under-reporting, in our view. In recent times, all of us have put in a lot of work to improve that situation, and it has. We're seeing more reports coming through. They weren't coming through before. I mean, when I see a university that hasn't reported a section 11 report in six years to the commission, I don't regard that as a corruption-free institution; I just regard that as a poor reporting culture. That's one of the things we've done. We're moving it into other areas. We're looking at other areas from our most recent analysis which has been undertaken by our Strategic Capability Unit where, again, there has been inadequate reporting. We're targeting those agencies as well. That includes one-on-one meetings. The one-on-one meetings with universities recently were undertaken by our commissioners themselves, underscoring the importance of this. I also had a meeting with TAFE NSW to a similar end.

The good news is we're getting a lot of cooperation. That's another mechanism that we've been using to see section 11 reporting rise. We've also had a new PID Act that's obviously come in; that's helped as well. That's the protected disclosures Act. We've been going out and doing regional meetings. We're starting, as I indicated, with one in Dubbo tomorrow and Broken Hill next week. Those regional meetings include meetings with regional executives and government departments, underscoring the importance of reporting. All of these activities, I think, are contributing to the rise that we're seeing.

Mr TRI VO: So you think because of your clearer guidelines, or reaching out and having meetings with them—especially the principal officers of the New South Wales public authorities—that, in a way, encouraged them to make more section 11 complaints. Is that right?

JOHN HATZISTERGOS: I would like to think so, but the other things we've done—I mean, we've done a lot of work about identifying red flags. It is disappointing sometimes when you see things happen in our investigations, which go on for years, and the red flags are there and they're not picked up. People within the organisation may say something. This happened in Operation Hector. A person there in the transport department noticed that a particular contractor didn't have a website and didn't have any presence anywhere but was getting an enormous amount of transport work. When he raised it with his superiors, he was told he had a trust issue. As it turns out, you see the outcome of Operation Hector and the amount of money that was going to activity that we found was corrupt. It could have been picked up earlier if the red flags were identified and properly assessed, rather than a person who was raising them being sidelined, effectively.

Mr TRI VO: By encouraging them to cooperate for these principal officers of New South Wales to make complaints. Have we thought of ways of supporting them? Sometimes if you make complaints in your own department, it's a difficult process.

JOHN HATZISTERGOS: Yes, it is.

Mr TRI VO: Have you thought about ways of supporting the complainants?

JOHN HATZISTERGOS: Yes. The Public Interest Disclosures Act is designed to protect them, and I think it has had some impact. But I think there's more to do and I think there's more we can do. I want to make that a focus of our next strategic plan, frankly, because you're right when you talk about witness welfare. Witness welfare is not just their personal wellbeing; it's also about their own situation vis-a-vis their colleagues. I think it's important that we support them and we protect them.

Mr MARK HODGES: In relation to the section 11 reports that are increased, is there any particular agency or type of agency that has increased more than others?

JOHN HATZISTERGOS: The big one in the last financial year was Corrective Services, and that followed the Astill investigation. Something was going on in Corrective Services, and it just led to a large number of matters coming to the commission, which ought to have been, frankly, reported at a much earlier point in time.

Mr MARK HODGES: And I suppose that's still going, those Astill matters.

JOHN HATZISTERGOS: We identify that in the annual report. It's no secret; it's there. So that was a significant part of the increase that we had last year.

Mr MARK HODGES: What about in the section 10 inquiries? Is there any particular agency or group which has seen a marked increase in complaints pursuant to section 10?

JOHN HATZISTERGOS: I don't know that we've actually got them written them down. Yes, we do. The main one is local government, which is 42 per cent of the complaints we get under section 10. You'll see this on page 25 of the annual report.

Mr MARK HODGES: Yes, I didn't read whether that was actually an increase or whether that was stable.

JOHN HATZISTERGOS: It hovers around the 40 per cent mark. I can tell you that much. It is always a big chunk of the section 10 reports we get.

Mr MARK HODGES: Did the commission manage to give information to all 128 councils after the recent council election?

JOHN HATZISTERGOS: We did a very big local government project. Firstly, our Strategic Capability Unit did an analysis of councils and identified councils where we needed to provide a particular focus to, according to the amount of activity, amount of development and a whole range of other criteria. We reached out to those councils that hadn't approached us about training for their councillors. Commissioner Murrell attended the annual conference of Local Government NSW, as we did the previous year—one in Tamworth and the most recent one. Sorry, that was the most recent one. There was one before then.

Mr MARK HODGES: It was Tamworth, yes. It was the Tamworth one.

JOHN HATZISTERGOS: We've both met with Local Government NSW. We've spoken to them about engaging with them. We also worked with the Office of Local Government. I did a webcast with them that went out to all the councillors. I wrote to all the councillors as well in the lead-up to the election. Our outreach programs, by the way, both in Broken Hill and in Dubbo, will involve meetings with local councillors and with senior council staff. We've done all of that. It has actually been a big part of our work since September last year. Our officers have also gone out in their fieldwork to speak to individual councils. I don't know if we've gotten to 128 of them, but we've gotten to a large proportion of them, I would like to think.

Mr MARK HODGES: Can I just ask you some questions regarding the timeliness of completing the investigation process? Obviously, with the large amount of data which you've indicated is now creeping into your investigations, it will take a lot longer to analyse and distil the data. But that also, as you've indicated, seems to delay the investigation process. If you had more resources, would some of these complex matters and the investigation period be shortened?

JOHN HATZISTERGOS: More resources always help. We've got significant resources that we apply where we need to. But I have to say to you that part of the issue we have—in one of the investigations in particular—is a lack of cooperation. Where we get a lack of cooperation, it just lengthens the process. It's actually more than one. It's at least two. There are at least two investigations at the moment where we are just not getting cooperation. I won't identify the agencies, but everything has been a hard slog and it has just prolonged it out. Issues are being raised.

Mr MARK HODGES: But you have coercive powers to call people in.

JOHN HATZISTERGOS: Yes, we've got coercive powers and we utilise those.

Mr MARK HODGES: Obviously, a concern that I have—and I'm sure this is shared by perhaps everyone in Parliament—is that the longer matters go on, people's memories fade but also a witness's or subject's or target's mental health suffers. People's reputations, if it's in the public arena, are damaged.

JOHN HATZISTERGOS: We do everything we can to minimise that.

Mr MARK HODGES: I appreciate that.

JOHN HATZISTERGOS: We have commented on that. You get legal claims being made. We are oversighted. We do have significant powers, but we are also well oversighted. We have to be careful that we don't infringe on the law under which we operate. Where we do think things can be done better, we come to you and we ask you for changes, as we have with the surveillance regulation. We can look at those aspects. Some of these investigations—just to give you an example of one of them, Operation Hector, which I did, commenced not with a referral from Transport, but with a referral from the Inner West Council. They saw something that was wrong. We started looking at an officer of the Inner West Council. Then we saw that there was collaboration with Sydney Trains, Transport for NSW and Downer EDI. No-one had come to us from those agencies. I told you that one of the officers who raised red flags at Transport was told by his superior, "You've got a trust issue."

Do you see what I'm saying? We start these investigations, we get some cooperation from the council and then we enter into some other space where no-one has picked anything up. That took us into a whole investigation involving Transport, where an enormous amount of corruption was going on over two transport projects. That also intertwined with Downer EDI. I understand the corporate entity was concerned about their reputation and their shareholders, but it is what it is. We commented on that in our annual report. If we can find mechanisms to be able to advance that, we will certainly take them. There have been instances where we have had to make calls to people to tell them. We've had claims of privilege being made that were not soundly based. We've had to pursue those

matters. But we do not give up. That is the other thing. You can be intimidated in this process and say it's all too hard. We won't. People need to understand that we won't.

HELEN MURRELL: I might just throw in that all the commissioners are very well aware of the need to try to bring focus and drive these investigations to a timely conclusion. We need to constantly review and streamline our processes so we can bring focus to them and we can, hopefully, bring things to a rapid conclusion for the reasons that you articulate, but also because there is limited use in bringing out a report in 2025 on something that happened in 2015. Everybody has left the scene and the issues are different. We need to drive these things to a rapid conclusion. Do you have any comment, Tim?

TIM FOX: Only to add that we are looking at the data issue very carefully, and have been for some time. We have shortened the time it takes to process the data, which is another issue. Before people can even look at it, it has to be properly processed and catalogued. We've just recently completed a project on that to shorten the time frame for processing so it is more readily available to the investigations teams. We are currently looking at a project to potentially renew our electronic evidence processing and review platform. It's something that is ongoing.

Mrs SALLY QUINNELL: Are you finding that people are data bombing you to try to shield the information that they know is there? Are they just giving you so much data, hoping that you won't ever find it?

TIM FOX: I don't think that is an intentional tactic that we come across.

JOHN HATZISTERGOS: We're more likely to get people who delete data.

The Hon. TANIA MIHAILUK: I think it's the other way round.

The Hon. JACQUI MUNRO: Can I follow on from that? You have obviously shortened some time frames, which is fantastic. Do you anticipate, in organisational forward planning, that those times can be further shortened with the increasing use of AI and better data management?

JOHN HATZISTERGOS: We'd like to think so.

The Hon. JACQUI MUNRO: Is that being built in to your forward planning?

JOHN HATZISTERGOS: I think we have to do something in this space. I have given you the statistics about how this is growing. It has been growing every year.

The Hon. JACQUI MUNRO: So basically, the sooner the better on that?

JOHN HATZISTERGOS: The sooner we can do it, the better. But we obviously need to go down Project Nexus and improve our capability as far as that's concerned—other than the two systems we have at the moment, Resolve and TRIM, which are holding us back.

The Hon. JACQUI MUNRO: Are you also anticipating that you'll actually need fewer staff for certain types of analysis?

JOHN HATZISTERGOS: It's difficult to say at this stage.

TIM FOX: I doubt that very much, given the volume of data is only increasing. The hope is that we'll just do things quicker and more efficiently.

Mrs SALLY QUINNELL: I want to talk for a minute about the 42 per cent of reports in section 10 complaints being from local government. Previously, you've said that they were predominantly complaints about local planning decisions. Is that still the vast majority of those complaints about local government?

JOHN HATZISTERGOS: It's a major proportion, particularly of the ones in the metropolitan areas.

HELEN MURRELL: Might I just also add, I think procurement has also been a significant feature.

Mrs SALLY QUINNELL: Previously, in, like, January of last year, you stated in a letter to us that the commission was concerned about some of the grooming practices identified of local government councillors. You were hoping to do a little bit more investigation into it, and I apologise if you've reported this and I've missed it. But is that something that you have looked into, and is it still something that you're kind of bubbling away at?

JOHN HATZISTERGOS: That came up in at least two of our recent local government reports, which were Operation Tolosa and Operation Galley. Both of those involved foreign influence as well and foreign actors. That is a reason why we've taken an interest in this area. Particularly in our work with local councils, as we go out and we speak to councils, we use those as examples of conduct that they need to avoid being groomed. I also mention it to MPs. It also informs part of our other work that we're doing in the Strategic Capability Unit more

broadly, and it also informs the work that we've been doing with the cultural and linguistically diverse communities that I've referred to.

HELEN MURRELL: My understanding is that the corruption prevention section wants to do significant work in this area. Unfortunately, the director is en route to Dubbo to deliver education there. But that is certainly a focus for the corruption prevention division.

Mrs SALLY QUINNELL: And so that would be part of that sort of educating up of new councillors and all of that knowledge as part of the local planning decisions and the potential grooming issues.

The CHAIR: Following on from that, are you aware if a form of corruption education is part of a sort of mainstream school-based civics curriculum?

JOHN HATZISTERGOS: No, but it's something we intend to pursue. That's part of our next strategic plan. It's something that we're looking at engaging in. I should indicate to you that in our outreach programs we do involve schools. So when we go out to outreach, we reach out to the schools in those various locations, and we do reach out to schools and go and talk to them.

Mrs SALLY QUINNELL: Does that include looking out for red flags, like those potential red flags you were saying that people missed earlier, and reporting it? Or is it just staying out of it?

JOHN HATZISTERGOS: I can give you more detail about the content of it. It's about corruption and ethics generally. It can actually start with when you're filling out the logbook for your licence.

Mrs SALLY QUINNELL: Yes. I know; I have an L-plater at the moment.

HELEN MURRELL: Just coming back to the question of school education, I don't know that corruption as we see it would be something that could be suitable for teaching at a primary school level. There is, of course, a primary ethics course in primary schools, which covers matters of integrity but not so much matters of corruption. I'm just not sure also what happens with civic education in secondary schools and whether there is an opportunity to insert it. Certainly there are streams that deal with law and legal matters where there might be an opportunity.

JOHN HATZISTERGOS: Some of the commissions have done work broadly around the ethical issues. Honesty and integrity in dealing with government. That's the sort of area that they basically cover in their course, which is relevant to us. It's one of our functions.

The CHAIR: I've spent a significant portion of my career working in developing markets and have found that, when it's brown paper bags full of money, everybody gets that. But I've found that more nuanced notions of conflicts of interest, for instance, are much less understood in developing markets. So whether it's recent migrants coming from different places, fostering this understanding of the more nuanced types of corruption would be really valuable.

Mr TRI VO: In June 2024 the commission released guidance for councillors on corruption risks associated with overseas travel to help councillors protect the reputation and security of themselves and their councils when travelling overseas. How has this resource been disseminated?

JOHN HATZISTERGOS: Yes, it's available on our website. I understand it has also been incorporated into some guidelines which have come from the Office of Local Government. We work with them on that.

Mr TRI VO: What feedback have you had from local councils or other authorities in terms of this guidance for councillors?

JOHN HATZISTERGOS: I'm not aware of any specific feedback. This issue arose out of our Operation Galley and our Operation Tolosa reports. We worked closely with the Office of Local Government in developing the guidelines. I think the guidelines they've put out to local councillors largely reflect what we've put out in our publication. But I haven't heard anything negative.

Mr MICHAEL REGAN: I've had quite a background in that I took over from a very—allegedly—corrupt council in 2008 at Warringham. It was sacked back in '03, had an administrator for five years, based on the allegations of planning and that type of things with DAs and councillors and the likes doing that. We set about on a program when I first started in '08 to remove any planning decisions from council and separately then we talked about them having any rezoning being peer reviewed by an independent planning panel. I can say in my time there has been—I would be highly surprised if anyone has been corrupted or influenced because decisions have been largely adopted by whatever the staff have said. I think we have largely adopted all but one that the staff have recommended and it has gone to a peer-review panel. Are there any councils doing this well in your opinion, and are there examples that—can the Government potentially legislate some of this stuff to have independent panels

review rezonings in particular? Because that's where the crux of it really is. I don't think DAs are done by councillors anymore. I think the planning Ministers took that away from them, which is the right thing to do. Are there any councils doing it well or any recommendations that we can have to help and assist that?

JOHN HATZISTERGOS: Beyond what we've actually already put forward in our recommendations to operations Tolosa and Galley, I'm not aware of anything further that we've suggested. I might be wrong. Sorry, I think Dasha might have been another one as well. I can take it on notice and look at the specific ones. We have, however, put on our website the implementation or the adoption of our recommendations, what progress has been made. The one that we're still waiting on is the councillor misconduct framework, which is important. That's the one that I referred to earlier, where there have been a large number of submissions made. The previous Minister had put forward a framework and that had been subject to a couple of publications. We had put a submission into that review. That was never advanced. The new Government came in with their own councillor misconduct framework. We put something in about that, but nothing has happened at this point. We have met with the Minister, and I understand that work is being advanced in that space.

The Hon. TANIA MIHAILUK: When did you meet with the Minister? Commissioner, do you recall?

JOHN HATZISTERGOS: When?

The Hon. TANIA MIHAILUK: Yes. That new councillor conduct or misconduct consultation has been going on for a while.

JOHN HATZISTERGOS: This is the Minister for Local Government?

The Hon. TANIA MIHAILUK: Yes.

JOHN HATZISTERGOS: That was last year.

The Hon. TANIA MIHAILUK: In '24 or '23?

JOHN HATZISTERGOS: In '24. I haven't met him this year. No, it was last year. Just give me one moment.

The Hon. TANIA MIHAILUK: Is the submission that the ICAC made in relation to that publicly available?

JOHN HATZISTERGOS: I should be able to give you the data.

The Hon. TANIA MIHAILUK: If you can take it on notice, Commissioner, it's fine.

JOHN HATZISTERGOS: Just give me one moment. Maybe I'll come back to it.

The Hon. TANIA MIHAILUK: Was that submission that the ICAC made in relation to that consultation process publicly available?

JOHN HATZISTERGOS: No. There was a consultation process. We put a submission in. Generally we expect that these things will be made public by the agency.

The Hon. TANIA MIHAILUK: I don't think it has been.

JOHN HATZISTERGOS: That hasn't occurred. We get councils asking us, "Well, what have you said? What's your response to this?" So we've written to the Office of Local Government saying, "What are you going to do? Because otherwise we want to release it so that people know our position." But, as I indicated to you in my opening, I think we're going to have to consider a process, moving forward, whereby we just release these as a default, unless someone tells us we shouldn't.

The Hon. TANIA MIHAILUK: I think that would be wise, Commissioner.

JOHN HATZISTERGOS: I favour it. I'll go through a process, but unless someone tells me I shouldn't be doing it for some reason, if it's a public consultation, I don't see a reason why we shouldn't make it publicly available.

The Hon. TANIA MIHAILUK: On these meetings, Commissioner, have you met with the Premier in the last 12 months as well?

JOHN HATZISTERGOS: Have I met with him? No, I haven't met with him at all.

The Hon. TANIA MIHAILUK: At all? Okay.

JOHN HATZISTERGOS: I mean, I've seen him at a couple of engagements and said hello to him, but I haven't met with him. I'm sorry; I stand corrected. I did go and do an induction with the Cabinet after they were all sworn in. I did do that.

The Hon. TANIA MIHAILUK: Okay, that would have been in '23. And just for example— **JOHN HATZISTERGOS:** No, I don't think it was. I think it was '24. I can tell you the date.

The Hon. TANIA MIHAILUK: In your opening statement, you did make reference to two letters you've written to the Premier—obviously, in relation to the surveillance Act issue in obtaining unauthorised surveillance, and then the other issue, I think, was the show cause for the property forfeitures. In the two letters you're suggesting legislative changes be made.

JOHN HATZISTERGOS: Yes.

The Hon. TANIA MIHAILUK: Have you had a response from the Premier? Was that quite a while ago, those two?

JOHN HATZISTERGOS: I got advice from the Cabinet Office that they're looking into it. I haven't got a written response, but I did get an oral response from the Secretary of the Cabinet Office.

The Hon. TANIA MIHAILUK: That's the standard process, is it, that they would just respond saying that they're looking into it? Or do they give you a timeline or advice or anything that they're actually going to take it on board?

JOHN HATZISTERGOS: To be frank, in relation to the question of the surveillance Act, they always said they were going to look at it. They said so at the time. They defended the regulation. They indicated that they needed the time to work out a long-term solution. I think Minister Daley said that in his speech to Parliament. So I've just followed up on it by writing a letter to Minister Daley and to the Premier, reminding them of the need to advance that aspect.

The Hon. TANIA MIHAILUK: We might follow that up in budget estimates too, to see how the Premier is going. We've got a letter that we've sent to the Premier as well in relation to operational activity.

The Hon. JACQUI MUNRO: That's referenced in here, too.

JOHN HATZISTERGOS: We can work with what we have, but it does sunset at the end of this year and we need a long-term response.

The Hon. TANIA MIHAILUK: No, it's very good that you've reminded the Government of that.

JOHN HATZISTERGOS: I also told them I was going to tell you. Sorry, just one other thing. I have met with Minister Graham on a couple of occasions in relation to the request that he made to meet me, and I met with him, but I haven't met with the Premier.

Mr MARK HODGES: Commissioner, can I ask a few questions regarding section 53 and 54 referrals. Do you refer matters pursuant to section 53 to outside agencies which are serious matters?

JOHN HATZISTERGOS: Generally not. "Serious" is not defined, but generally not. It may be a matter that requires disciplinary action. I don't know whether or not you would regard that as serious, but we could refer a matter to an agency. If it involves criminal conduct, that's most unlikely.

Mr MARK HODGES: But page 30 of your report, speaking about section 53 and 54 in the second paragraph from the bottom, is that an error?

JOHN HATZISTERGOS: It's relatively serious. You've got to look at it in the context. It is not a matter that really we should be dealing with, but it's a matter that we should be overseeing. There's matters that we refer to an agency and we just tell them to look after it. Then there's matters where we refer it to them but we actually oversee the investigation. They are required to—usually they will produce an investigation plan, they will get an external person, they identify it, they then present the report to us. That does not prevent us from then taking the matter on. It has happened where we have gotten the report back and we have decided we want to look into that further. But we wouldn't do that with a very straightforward lower level matter. We might just refer that under 53 and ask the agency to manage that themselves.

Mr MARK HODGES: Do you see an increasing trend in your referrals to outside agencies to investigate pursuant to section 53?

JOHN HATZISTERGOS: The number is relatively small. It's not large. We oversight that at every one of our monthly meetings, so it's not very large. The 53 and 54 ones are relatively small.

Mr MARK HODGES: Just one other quick question on another matter. There were, I think, 42 per cent of section 10 referrals which referred in your report to local government. You indicated earlier that that has been stable over the last two or three years. Are you able to proffer any view as to whether that local government complaints—a breakdown between the council administrative staff and the elected officials?

JOHN HATZISTERGOS: Not on those figures, I can't. I would have to look. I can take that on notice. I don't know if we collect it on that basis, but we can look at that.

Ms KOBI SHETTY: Given the important role of the commission to encourage more reporting, and the big uptick last financial year, how are you tracking this year, and do you anticipate a similar uptick again?

JOHN HATZISTERGOS: As I indicated in my opening, it's about 17½ per cent compared to the same time last year, as of January of this year.

Ms KOBI SHETTY: Are you anticipating that to continue over the next six months?

JOHN HATZISTERGOS: Who knows whether it will continue, but it is continuing at the moment. It could change, but we are doing a lot of work to encourage more reporting.

Ms KOBI SHETTY: And how are you balancing that with the resourcing of the commission? Are you confident that you've got the capacity to manage the additional reporting?

JOHN HATZISTERGOS: At the moment, we are. If we do require additional resources, we will seek to activate the contingency fund. We just recruited some more investigators, and we've got them on staff. Our processes do take a while, because we do have to vet our staff. It takes some time. But at the moment I think we are well positioned for the workload we have. I'm not suggesting that we've got much slack, but we're adequately resourced.

Ms KOBI SHETTY: Are there any instances where your view is if you're encouraging a culture of reporting and getting things earlier, that might have a positive impact in terms of what you were saying earlier about having less complex investigations where issues are allowed to run for several years?

JOHN HATZISTERGOS: Yes, because if we can get in early, we can stop things. Unfortunately, sometimes we see things that go on for a very long period of time. They just develop, take a course of their own, no-one picks up the red flags and the public interest is the one that suffers.

Ms KOBI SHETTY: Given that you hit the targets in terms of the time frames 100 per cent of the time and significantly under the KPIs, do you feel that there's any more room to improve that, given that the 80 per cent target still allows for those investigations that might blow out for longer?

JOHN HATZISTERGOS: The difficulty with the 80 per cent target is it's 80 per cent—we've got to meet 80 per cent of the report within 180 days of final submissions coming in. The difficulty with that is it's based on the number of hearing days. So anything more than five days, the target is 80 per cent has to be completed within 180 days. Bearing in mind the number of investigation reports we do every year, one or two or three—you only have to have one that doesn't meet the timeline and your benchmark is thrown out. It's based on the number of hearing days and, as I indicated earlier, we're getting terabytes of material coming in. It's not, I think, a benchmark that really reflects the work that we undertake. But it's a benchmark. It's one way that people can measure things, and we certainly use it to discipline ourselves to try and get these things out.

I have looked at benchmarks of other like-minded commissions. I can report to you that none of them have a time-based benchmark like we do. Some of them have benchmarks about the number of reports they'll issue a year, but they don't have the sort of benchmark we have. Our predecessors committed the organisation to this benchmark. I've said on a couple of occasions that I've been here that I don't regard it as an adequate benchmark, in many respects, for the reasons I've indicated. Nevertheless, we'll work with it as best we can. It gives people some idea, and it does impose some sort of discipline on us.

Mr TRI VO: I have a follow-up question. You mentioned days of hearings is a not a good benchmark. What other benchmark do you think should be considered in the future?

JOHN HATZISTERGOS: One that reflects the amount of material we have to look at would be useful. I haven't gone down that direction. The last three reports since the benchmark has been in place, we've met the benchmark. We had the resources significantly increased to enable us to do that. Commissioners took a very hands-

on role in the writing of the reports. All of that, I think, assisted us in meeting the benchmarks. It's probably a better question to ask me at the end of my term.

The Hon. JACQUI MUNRO: Does having more data mean that you require less public hearing days because you've got a more fulsome picture of what's happening and you don't have to rely on witness evidence in that forum as much, as you've got information?

JOHN HATZISTERGOS: There have been situations where we've gotten electronic material, we've been able to look through it and it's assisted us in determining that we're not going to go further with an investigation. So yes, it has been of assistance in that respect. But, on the other hand, you might go in another direction if the material takes you somewhere else. You might start exploring other people's electronic devices and so on. So yes, it can result in a matter being closed earlier, but it also can result in a public inquiry taking a lot longer. I think if you look at the investigation reports which the commission put out 35 years ago when it was first established and now, there is just no comparison—just none. Those early investigations were largely oral evidence. Now, we've got a lot of electronic evidence, so it is vastly different.

HELEN MURRELL: If I could just add there that it may be that you have a lot of data that more or less tells the story. You've still got to offer the witness the opportunity of explaining that, and if there's a hell of a lot to explain, then that might take a long time. But that said, in our work, the same as what's happening a lot with courts and in the criminal jurisdiction and other jurisdictions, so much is documented that, at some level, and very frequently, it doesn't matter what they say, the documents are going to speak for themselves anyway.

The CHAIR: Are there any other questions? If not, thank you very much for appearing before the Committee today. The Committee may send you some further questions in writing. Your replies to those questions will form part of your evidence and may be made public.

(The witnesses withdrew.)

(Short adjournment)

Ms GAIL FURNESS, SC, Inspector, Office of the Inspector of the Independent Commission Against Corruption, affirmed and examined

The CHAIR: Thank you for appearing before the Committee today. Please note that Committee staff will be taking photos and video during the hearing. The photos and videos may be used on the New South Wales Legislative Assembly social media pages. Please inform the Committee staff if you object to having photos and videos taken. Can you please confirm that you have been issued with the Committee's terms of reference and information about the standing orders relating to the examination of witnesses?

GAIL FURNESS: I have.

The CHAIR: Thank you. Would you like to make a brief opening statement before the commencement of questions?

GAIL FURNESS: I would, thank you, and it will indeed be brief. Thank you for inviting me to give evidence and the opportunity to make this short opening. During the year under consideration, 2023-24, I continued to have a cooperative and effective working relationship with the chief commissioner, the deputy commissioner and senior staff of the commission. I appreciated the timely and fulsome responses to all my requests for information.

The main notable event in the reporting year was my investigation into the time taken in relation to Operation Keppel, and that report was furnished in the period under consideration. I concluded that, balancing the impact of the time taken with the complexity, importance and resources available, the time taken was not maladministration. However, it was serious but it was necessary delay rather than undue delay, and the commission has accepted, in the main, the recommendations. They have given some evidence about that, and it is set out in their report.

Turning to complaints, I received complaints concerning 54 matters. Small increase on last year, but generally along the continuum. Fifteen notifications I received from the commission under the memorandum of understanding; that's part of the 54 matters. Three of them related to the disclosure of information by staff, which you might recall was an issue last year, but I am pleased to say that the number was down from seven to three, so work is being done in that area. Three related to a conflict of interest, five concerned the commission's decision

not to investigate and three concerned the use of coercive powers. The details are set out in the commission's annual report.

I received my first two public interest disclosures, one of which I sent to the commission for investigation, which, as at July last year, was still under investigation. The other concerned the time taken by the commission to respond to her complaint, and I found nothing wrong in the work of the commission in that regard. Most complaints were against the commission not investigating a person's complaint, which is not unusual. Usually that is the case. It may be, having regard to the chief commissioner's evidence that they've had such a large increase in section 11 complaints, that I might find that those decrease, because, clearly, they have reported on a mandatory basis, so they are not going to necessarily make a complaint in the same way that individuals do.

I continued to finalise most complaints in just over two weeks, and that was helped by the prompt response from the commission to my various requests. As to my finances, I had a budget of about \$830,000. I spent about \$817,000 of that, and it remained sufficient for my anticipated workload. I commenced an audit of applications for the execution of search warrants by the commission between 2021-23 and furnished the report to Parliament in the current year, not the year under consideration. However, in short, I found that the commission had acted lawfully and in substantive compliance of its policy requirements.

During the last hearing the question was raised as to the process for me declaring any interests that I may have that may conflict with my public duties, and I indicated there was no formal process but what I would do. It remains that there is no formal process. However, I was made aware that some people in similar positions to me have chosen to report to the secretary of the department, so I have done that as well. I have made a written report to that person, and I would expect that I would update it as necessary. Thank you again for giving me the opportunity to give evidence before you.

Mr MARK HODGES: Inspector, during the current period, you have now, I suppose, had access to documents that have been produced to the commission pursuant to the Telecommunications (Interception and Access) Act 1979. Is that correct?

GAIL FURNESS: I certainly now am able to access that for the purposes of audit and others, but I have not had any need to do so.

Mr MARK HODGES: You would be aware that they receive considerable amounts of material and it would be impossible for you to access that in any meaningful way, I presume, with the quantity of documentation they receive?

GAIL FURNESS: The Law Enforcement Conduct Commission inspector has statutory power to oversee the ICAC in relation to its telephone intercept powers and product, and the Ombudsman also has a role in relation to it. That area of its work is oversighted by others, not me.

Mr MARK HODGES: In respect of the work of the commission, not so much in the issue of after the hearing and before the report is given, but in respect of their time taken to investigate matters themselves, have you looked into how long it takes the commission to investigate matters?

GAIL FURNESS: It's clear from their published reports how long it takes, because they set out the timeline, generally speaking. Certainly, the investigation that the chief commissioner gave evidence about this afternoon, the one that he expected would not be completed anytime soon, that investigation is the subject of discussion whenever we meet, because it is an investigation that is complex and taking some period of time. I'm not suggesting unreasonably, but it is taking some period of time, so I certainly discussed that particular one. Other than that, it hasn't been brought to my attention by way of complaint about the length of time of the investigation, as opposed to reporting on an investigation.

Mr MARK HODGES: I suppose it's difficult for people to make complaints when their manager is still subject to an ICAC investigation.

GAIL FURNESS: It depends when they first become aware of it. They may become aware of it early on or later on, depending upon the nature of the investigation and the nature of their engagements. It's a bit hard to tell.

Mr MARK HODGES: How often do you meet with the chief commissioner?

GAIL FURNESS: I meet with the chief commissioner and whatever other commissioners are available once a quarter but have conversations in between that period if there's something to be said.

The Hon. JACQUI MUNRO: Thank you, Inspector, for coming today, and thank you for the update on the disclosures that you have obviously decided that there can be a process which would provide useful information. Is that a process that you can imagine would be codified in some way, as in for the next inspector to be required to make such disclosures to a relevant secretary?

GAIL FURNESS: I understand that there may be a policy basis for not requiring independent statutory officers to make a declaration to a member of the Government or a department, so that may be the case. But certainly, it should be made known to somebody in my position that there is this process which has been adopted by others—that is, to voluntarily make a disclosure to the department. Certainly I would be very happy to convey that to the next inspector.

The Hon. JACQUI MUNRO: That sounds good. It may be something that can be put in a note into the top drawer, like the presidents. Obviously, it would be good to have some written suggestion or encouragement of such a process that we could also then refer to, or members of future committees could refer to.

GAIL FURNESS: Certainly.

The Hon. JACQUI MUNRO: Is there something like that that is provided to inspectors, a sort of guidance for the job?

GAIL FURNESS: No. Not that I'm aware of. I got a job description. It's difficult with the statutory independence. I understand the difficulty that senior bureaucracy would feel about their engagement with me, particularly in terms of being instructive.

The Hon. JACQUI MUNRO: On the number of reports/responses provided to you as the inspector, there was quite a significant increase from 14 in the last reporting period, nine in the annual report year before that, to 25 in 2023-24. What was the reason for that jump in reports and responses that were provided to you?

GAIL FURNESS: Provided to me by the commission, do you mean?

The Hon. JACQUI MUNRO: Yes. In the key quantitative results for accountability activities in the ICAC report, on page 21, then table 5 and the third row is "Number of reports/responses provided to the Inspector of the ICAC".

GAIL FURNESS: I think that could be a number of things. It could relate to the complexity of some complaints, which means that there needs to be a bit of correspondence as to what's happening and why. It could also be that Operation Keppel probably resulted in a lot more communication than one would ordinarily expect, because I was actually conducting an investigation. There might have been some policy issues—for example, the Surveillance Devices Regulation. I am certainly informed of matters like that, so there may have been more of those. I think that's probably the nature of complaints, Operation Keppel, and there have been some law reform matters, including the telecommunications interception amendment and the public interest disclosures.

The Hon. JACQUI MUNRO: On the surveillance regulation, we just heard from the chief commissioner that he is anticipating that the Government will act on either extending the regulation as it stands or perhaps introducing something entirely new to cover those kinds of operations. Do you have a view on the way that the chief commissioner or ICAC should be corresponding with the Government to make—I mean, "making recommendations" is possibly too strong, but to outline what ICAC would like? How should they be conducting that correspondence to ensure maximum transparency?

GAIL FURNESS: The starting point is that if the ICAC believes legislation is deficient for it to carry out its functions and objectives, then it needs to ask for whatever changes it believes is necessary, and then, depending on the nature of the change, it goes through a process. If it's legislation, then obviously it will come before Parliament. If it's a regulation, it's dealt with in a different way. So in relation to that surveillance devices legislation, from what I understand from what the chief commissioner has said, he sought an amendment to the Act, and it was decided to amend the regulation to make it time limited and not dependent upon a particular operation. I take no issue with the way in which he has done that, nor do I take any issue with what he sought and what he continues to seek, given that the sunset clause comes into effect at the end of this year.

Mr TRIVO: I think from last year's hearing there were two major issues. The first one was the timeliness of complaint processing—I think you mentioned already. I think the other one, if I'm not incorrect, is about the welfare of people involved with ICAC investigations. In your opinion, has the commission taken all the appropriate steps to promote welfare of witnesses and people involved in investigations, particularly people from culturally and linguistically diverse backgrounds?

GAIL FURNESS: As you know, I did an investigation into the welfare of witnesses appearing before the commission, because there had been some very unfortunate incidences. I made a number of recommendations, and the principal one was that there be a witness liaison officer, and that there be appropriate training and procedures put in place to ensure that those potential witnesses, or actual witnesses, could have access to that person. All of my recommendations have been adopted and implemented. From material I receive from the commission routinely, it's clear to me that in respect of every operation in which there is to be a hearing the relevant staff carry out a risk assessment to determine, largely based not only on the person's presentation but what they say about how they are feeling. So that is at the forefront of their thinking at that stage of an operation, and I've got no reason to believe that it's anything other than working well. I certainly haven't had any complaints about it. Given the evidence given today and the work done, it certainly seems to me that they're taking the issue with the seriousness it deserves.

Mr TRI VO: Is there further work beyond your recommendations for the commission to undertake in this regard?

GAIL FURNESS: They would need to have continual training and development of staff, not only new staff, and also be abreast of whatever changes and improvements happen in other agencies and the community more generally with dealing with people who are, not surprisingly, adversely impacted by being engaged with a commission with intrusive, coercive powers. So I would imagine they would stay on top of the topic, as it were, and make sure their staff were adequately trained.

Mr TRI VO: The commission mentioned the 159 staff in the commission, but there is only one welfare liaison officer. Do you think that is sufficient?

GAIL FURNESS: As I understand the operations, I think it is. That person comes into play with hearings, private as well as public hearings, so it's not as though they are involved in every aspect of the commission's work, and not every witness requires assistance. I think the chief commissioner said this afternoon that they are seeking data on it to better understand how many people access it, but certainly from the material I've read, that doesn't seem to be an issue. But I'm sure if they keep the appropriate data they'll be able to work out quite quickly what that person's workload is and whether it's too great and needs more officers.

Mr TRI VO: I would just like to congratulate you on being appointed as the inaugural Inspector of the National Anti-Corruption Commission, and your serving as the Inspector of the New South Wales ICAC, and also the inaugural first inspector of a national anticorruption commission. What impact, whether positive, negative or neither, can you see your new role having on your existing role as Inspector of New South Wales ICAC?

GAIL FURNESS: I see it as entirely positive, because there are lessons I have learned from the 2½ years in this position that enabled me to more quickly establish the Commonwealth office, and that's been very helpful. Also, having a greater understanding of concepts of corruption and understanding the systems of investigations has helped me in establishing the office of the inspector on a national basis. I see it as very positive. They're both part time, so there's no question of "working day", as it were, and the relevant attorneys-general approved, obviously, the position.

The CHAIR: I think we saw from the ICAC's annual report that there's an increasing velocity of referrals and complaints to the ICAC. The complexity of the ICAC's work is increasing, a lot of it being digital and technology related. Do you feel that the ICAC is being effective in respect of its current scale and resourcing, given the amount of corruption or the level of corruption that is out there in New South Wales at the moment? Do you feel like the balance is about right?

GAIL FURNESS: From my understanding of institutions, if they need more money, they will ask for it. The chief commissioner said to you, I think this afternoon, that in fact while they didn't have much room to move, they were working within their constraints but would move if there were a need to. And they would be best placed to know that. There's no doubt the complexity and the amount of information they have to deal with becomes more extensive as time goes on, but I would also have thought their systems will have improved and their capacity for analysis of large numbers of documents will have improved over time. So I think they're the best judges to know whether or not they've got adequate resources. Without doubt it's a growing, complex area, but I am confident that they are conscious of that and will be putting in place any measures that are necessary to be able to meet the complexity.

The CHAIR: Relatedly, do you have any reflections or thoughts in respect of the impact of AI on the commission's role or your role, positive or negative?

GAIL FURNESS: I listened with interest to that. I have been following the Chief Justice's recent guidelines, and there's been a lot of discussion about it. In terms of my job, it doesn't really affect me. I have individual complaints, and I deal with those complaints on the basis of the content of them. As was said this afternoon, AI doesn't reason like a human does, and all of my work is effectively reasoning work. I suppose it's possible if you had a large number of submissions to an inquiry and you wanted some assistance with that, but primarily I would tend to do that myself. So I think its application for me is lesser than for other places.

I note that the commission is doing some work with the University of New South Wales and it is clearly on top of what other agencies of a similar nature are doing in the AI space. But it's difficult when you've got witnesses and witness statements, and there's the legal underpinning as well as the factual and evidentiary. You can't make up somebody's evidence. You can't have someone else put the words around someone's evidence. So it's more complex in a quasi-legal or administrative decision-making context, but I think the Chief Justice's work has been useful as well and, as the chief commissioner said, he has obviously built on other work.

Ms KOBI SHETTY: Having a look at your reports—obviously you received 54 complaints and you didn't have any findings of misconduct. Do you think people have a good understanding of your role as the inspector? What do you think might be the way to educate the community about what your role actually is to do? Because I feel like you're often given grievances that don't result in perhaps what people are looking for. Who is best placed, do you think, to try and undertake that education, if anyone?

GAIL FURNESS: Given that my only jurisdiction is the commission, and they have to have engaged with the commission in some way to be sufficiently unhappy to write to me, the commission is the first port of call for them knowing that I exist. Certainly, in the correspondence I see, if anyone expresses any dissatisfaction to them, they immediately tell them about me. So, in fact, to some extent they are the best people to tell those who might be concerned to come to me.

Interestingly, I found that, with the national position and the publicity that's attracted recently, a lot of people write to me in both roles, regardless of the nature of the complaint, so I get a lot more traffic, if you like, because of that. But it's hard for me to work out a target audience, if you like, because people involved with the commission aren't just in the public sector. Often they're complainants and they're private people, so it makes it difficult. But the fact that the commission tells people, and that it's on their website, I think is a significant way of people understanding.

But the reality is most people complain to me because the commission hasn't investigated their complaint. For that to be misconduct or maladministration, the decision-making process must have seriously gone awry. Because the commission has an assessment panel with all the commissioners and senior staff, it's not just one person in a room making a decision, who may make the wrong decision for whatever reason. So for that decision to go so awry would be unusual. Not impossible, we know, but unusual.

Ms KOBI SHETTY: Do you think that process is working well for the commission to be pointing to you as the next port of call with people who are dissatisfied with their judgement?

GAIL FURNESS: I think so. When you see they got 3½ thousand complaints, a lot of those albeit section 11 complaints, and only 21 people complained to me about their complaint not being investigated, there's an awful lot of people out there whose complaint wasn't investigated who haven't taken issue, at least with me, about it.

Ms KOBI SHETTY: Finally, I note that in your report there was a public interest disclosure made, an anonymous one, that you said should be referred to another body. Was there an outcome from that?

GAIL FURNESS: No, that was one I referred back to the commission for it to investigate, and the commission appointed an external investigator. As at the time of reporting, that person hadn't completed their task. The other one, to me, was about the time taken by the commission to come to a decision about their complaint. Surprisingly, I get very few of those, and I considered all the circumstances and found that there was no misconduct or maladministration in the process the commission followed. Not the outcome, because I don't have merits review function. Nor do I want it—I have to always add that after I say I don't have merits review function. So they didn't misconduct themselves in the process.

The Hon. TANIA MIHAILUK: Following on from that, you mentioned that you said you referred one of the conflict of interest matters back to the commission to investigate. Is that right?

GAIL FURNESS: It was a public interest disclosure matter.

The Hon. TANIA MIHAILUK: Is that something that you would ordinarily ask the commission to investigate rather than yourself?

GAIL FURNESS: It was about allowances and the like, so it doesn't involve individual judgement of any sort. It was a question of fact: Did these people misuse whatever allowances were involved? And it could properly be investigated by an external investigator. The commission has the resources to engage and pay for that person. Then it's a reasonably straightforward job of talking to people and looking at records and coming to a view as to whether there in fact was that—

The Hon. TANIA MIHAILUK: But that was a suggestion or a direction that you would have made for the commission to undertake that, right?

GAIL FURNESS: Yes, and they agreed.

The Hon. TANIA MIHAILUK: Sorry, I just didn't realise that we allow the commission to self-investigate, but I understand in this context they did seek external—

GAIL FURNESS: Investigate by appointing an external investigator.

The Hon. TANIA MIHAILUK: Yes, that's what I'm saying. External investigator. Just on those conflicts of interest that are in the report, there's also another matter there talking about concerns raised about a relative of a commission officer, and so forth. What was that issue?

GAIL FURNESS: There were two sets of complaints, because there was more than one complaint about each of the issues. The first one was a complaint that the relative of a commission officer was involved in one of the commission's investigations. Indeed, a person of interest. The inference was that the officer provided information to the relative, wrongly. I talked to the commission about investigating that complaint, and they sought to interview those who vaguely had some knowledge or connection. It wasn't hugely past the rumour stage, I must say, but most people wouldn't be interviewed because they were part of the investigation. It was very distressing for everybody, I have to say, all round. It was difficult, and there was very little hard material to grab onto, but certainly the commission officer was spoken to. Ultimately I was satisfied—after some period of time passed while all of this happened—that there was no misconduct or maladministration. That was the first one.

The second one has now become public, because *Tsirekas v ICAC*, which the commission refers to in its report as being a case that the former mayor of Canada Bay Council had taken against the ICAC, judicial review case, has now been published. Replete in that decision is reference to my complaint and how I handled it, so that is now a very public matter. It's in the New South Wales Supreme Court reports from last year. That was a complaint which concerned a relative of a commission officer having written a letter suggesting or implying that the commission officer was disclosing information and in some way acting in a biased manner. I found that that wasn't the case, and so did the Supreme Court. They dismissed his case. Interesting reading.

The Hon. TANIA MIHAILUK: Yes, I might peruse it.

GAIL FURNESS: I can tell you the citation, just to make it easier for you. As I say, it was a single judge. 28 November, before Justice Hulme, *Tsirekas v ICAC* [2024] NSWSC 1514.

The Hon. JACQUI MUNRO: When the chief commissioner of ICAC is corresponding with the Government with suggestions of how they might be assisted with legislative reform, do you think that that correspondence should be made public as part of the reporting process of ICAC?

GAIL FURNESS: I think it depends on the subject matter of the correspondence. One can imagine there would be some letters about issues which, for operational or other reasons, should remain confidential, but then there may well be other matters which could properly be the subject of public discussion. I think it depends on the content.

The Hon. JACQUI MUNRO: I guess, specifically related to legislative reform that a government chooses to act in accordance with advice, or not necessarily specifically in accordance with advice, but acts because of information received from ICAC, do you think that there is a public interest in having that correspondence made public, given there would be some legislative change as a result?

GAIL FURNESS: If there is legislative change, then we'll all know about it, because—

The Hon. JACQUI MUNRO: We may not know the ICAC's involvement if they decide not to publish the letter, or the Government decides not to publish the letter.

GAIL FURNESS: You may not, but I'd be surprised if, in the course of any debate in either House, there would be no discussion about the fact that the ICAC wanted it. Because if it was a power that was relevant to their functions and their powers, then the first thing I would have thought you'd want to know is, "Do they want this, or are we imposing it on them? And if they want it, why do they want it?" So I would have thought that would become public through that means. Different if it's a regulation.

The Hon. JACQUI MUNRO: I think in this case there was some uncertainty as to the type of change that was requested and why. The Government perhaps took a broader view to what had originally been suggested or requested, or given as a context for the correspondence, and that potential disparity should come to light in some way.

GAIL FURNESS: I think it has come to light now. There was a difference. The commission sought an amendment to the Act, which would have permanent effect on the powers in relation to the surveillance devices material. What they were given was a time-limited power which now is up for discussion, so I think it is public now. I don't know when it became public.

The Hon. JACQUI MUNRO: I would suggest that it required some political pressure to be applied before that. It certainly wasn't, I don't think, a normal process or considered a required part of the process.

GAIL FURNESS: Right.¹

The Hon. JACQUI MUNRO: So you would say having that information public is in the public interest?

GAIL FURNESS: Well, no. It depends what the information is and what reasons there are for asking for it. If that letter talked about the operation to which it applied, then of course it shouldn't be in the public domain. I can't say I don't know, because I have read the material, but not recently. But let's assume that there was some discussion about the reasons that would have disclosed something about the nature, not the details, obviously—I wouldn't have thought that should be in the public domain. But it very much depends on what's being sought, why it's being sought and what information is being provided in support of it as to whether it should be public. I don't think there's any right or wrong answer in the absence of content.

The CHAIR: If there are no other questions, I think that concludes the evidence. Thank you for appearing before the Committee today. The Committee may send you some further questions in writing. Your reply to those questions will form part of the evidence and may be made public. I thank all the witnesses who have appeared before the Committee. I would also like to thank Committee members, Committee staff and the broadcast team and Hansard for their assistance in the conduct of today's hearing. Thank you very much.

**(The witness withdrew.) The
Committee adjourned at 16:10.**

¹ The Committee received correspondence from Ms Furness providing clarification on these statements, which is published in the Committee's [webpage](#).